

REMARKS/ARGUMENTS

The Examiner has maintained the rejection of claims 1, 3-9, 11, 13-20, 22, and 24-28 under 35 USC § 103(a) as being unpatentable over Chum et al. (US 5,677,383) in view of Bamburger et al. (US 6,384,158).

In response to Applicant's previous arguments, the Examiner has stated, "Applicant argues that higher melt strength is not a universally desired characteristic. The examiner agrees but notes that the skilled artisan would have desired said characteristic in the present situation." This statement is completely unsupported. Assuming the "present situation" referred to by the Examiner means extrusion coating, the Applicant points out that Chum itself teaches its resins are already suitable for use in extrusion coating without the need for increasing melt strength. Clearly it is not self-evident that a skilled artisan would desire to increase the melt strength of the resins taught in Chum when Chum states that its resins are already suitable.

Moreover, even assuming for the sake of argument that it was known that higher melt strength was needed, the Examiner has not proffered any reasoning as to why a skilled artisan would limit themselves to LDPE instead of other materials known for relatively higher melt strength. Ethylene vinyl acetate copolymers, for example, are known to impart high melt strength, and yet the Examiner has not suggested why the skilled artisan would choose LDPE over EVA. For that matter, it is not clear why the skilled artisan, looking to increase melt strength, would not just select homogeneously branched polyethylene and heterogeneously branched polyethylenes, which themselves have highest melt strengths possible. It is respectfully asserted that if a skilled artisan wanted to increase melt strength, such approach would be tried first, before looking to add other materials which have known draw backs in terms of other properties required for good extrusion coating applications. As there is no objective reason presented for using LDPE, it appears that the Examiner's selection of that particular solution for improving melt strength among many possible choices is simply a matter of hindsight reconstruction of the Applicant's invention.

The Examiner also acknowledges that the addition of LDPE leads to a decrease in other properties such as heat sealing or toughness but argues that the skilled artisan would have been able to optimize the amount of LDPE added in order to optimize all the properties of the resulting blend. The Chum reference was published over ten years ago and JP 57128729 (which, like Bamburger, teaches that LDPE can be added to linear polyethlyene to increase melt strength) cited by the Examiner in the latest Office Action was published over twenty five years ago, and yet to the Applicant's knowledge, no other party is combining the the resin of Chum with high melt strength LDPE. Given the length of time, if it were a matter of routine optimization, surely such blends would be visible in the marketplace.

Given the forgoing, the Applicant respectfully asserts that the Examiner has not met the burden of showing that the claimed invention is prima facie obvious over Chum and Bamburger, and, accordingly, courteously requests that the Examiner withdraw the rejection and promptly issue a notice of allowance.

Respectfully submitted,

/James T. Hoppe/
Registration No. 35,899
Phone: (979) 238-9039

P. O. Box 1967
Midland, MI 48641-1967

JTH/smm